

Marion I. Quesenbery, Cal. SBN 072308
RYNN & JANOWSKY, LLP
P.O. Box 20799
Oakland, CA 94620
Telephone: (510) 705-8894
Facsimile: (510) 705-8737
E-mail: marion@rjlaw.com

Attorneys for Plaintiff
Bay Area Herbs & Specialties, LLC

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

BAY AREA HERBS & SPECIALTIES, LLC,

Plaintiff,

v.

THE PRODUCE COMPANY dba
WESTSIDE PRODUCE; CHARLES
O'NEIL; SUSIE O'NEIL; and ELAINE
O'NEIL,

Defendants.

CASE NO. C 08-05466 BZ

**CASE MANAGEMENT
CONFERENCE STATEMENT &
REQUEST TO CONTINUE CMC**

CMC Date: August 3, 2009

CMC Time: 4:00 p.m.

**CMC Place: Ctrm. G, 15th Floor
San Francisco**

Plaintiff Bay Area Herbs & Specialties, LLC respectfully requests that the Case Management Conference and the associated dates be continued for an additional 30 days. Defendants were served with the Complaint and Summons, they did not respond, and default was entered by the Clerk of the Court on May 28, 2009.

As counsel stated in her prior CMC Statement, although the motion for default judgment papers have been drafted, they have not yet been filed. On June 22, 2009, Defendants Charles O'Neil and Susie O'Neil filed a bankruptcy petition in the U.S. Bankruptcy Court, Northern District of California, Case No. 09-54917. Consequently, any further proceedings against these two Defendants in this Court have been stayed. After research regarding whether the stay

1 extends to The Produce Company or Elaine O'Neil, Plaintiff's counsel has concluded that it does
2 not. Chugach Forest Products, Inc. v. Northern Stevedoring & Handling Corp. (In re Chugach
3 Forest Products, Inc., 23 F.3d 241, 246 (9th Cir. 1994); Advanced Ribbons and Office Products,
4 Inc. v. U.S. Interstate Distributing, Inc. (In re Advanced Ribbons and Office Products, Inc.), 123
5 B.R. 259 (B.A.P. 9th Cir. 1991).

6 Plaintiff's attorney had intended to file the Motion for Default Judgment this week, but
7 Plaintiff's declaration in regard to damages is not yet completed. Consequently, Plaintiff's
8 attorney respectfully asks for one last continuance of approximately 30 days of the Case
9 Management Conference to allow her time to file (likely early next week) the Motion for Default
10 Judgment against Defendants Elaine O'Neil and The Produce Company.

11 I declare under penalty of perjury under the laws of the United States that the foregoing is
12 true and correct.

13 Date: July 30, 2009

RYNN & JANOWSKY, LLP

14 By: /s/ Marion I. Quesenbery
15 MARION I. QUESENBERRY
Attorneys for Plaintiff

16
17 **IT IS SO ORDERED. The Case Management Conference is continued to**
18 **October 5 2009, at 4:00 p.m., in Courtroom G, 15th Floor, San**
19 **Francisco.**

20 Date: July 31, 2009

21 
22 U.S. MAGISTRATE JUDGE
BERNARD ZIMMERMAN